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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,547	08/28/2000	SEIKI TOMITA	107126	6727

25944 7590 03/15/2002

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EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/648,547

Applicant(s)

Tomita et al

Examiner

A. J. [Signature]

Group Art Unit

3737

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE —3— MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on January 30, 2001
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 14, 2, 3
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 3739

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sklar et al in combination with Frey et al. Sklar et al teach a device such as claimed (see column 1, lines 41-65) but do not give a particular form for the eye tracking device. Frey et al teach imaging the symmetrical aiming beam to track the eye. It would have been obvious to the artisan of ordinary skill to employ the tracking mechanism of Frey et al, since ~~et al, since~~ Sklar et al disclose no particular tracking mechanism, thus producing a device such as claimed.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sklar et al in combination with Frey et al as applied to claim 1 above, and further in view of Bille et al. Bille et al teach the use of a YAG laser for <sup>o</sup>phthalmic surgery. It would have been obvious to the artisan of ordinary skill to employ a YAG laser in the device of Sklar et al, since this provides a smoother ablation, thus producing a device such as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Shay whose telephone number is (703) 308-2215.

David Shay:bhw

March 13, 2002

  
DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330